

ESTTA Tracking number: **ESTTA727922**

Filing date: **02/18/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92055738
Party	Defendant Potomac Tobacco Company Limited
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Date	02/18/2016
Attachments	reply motion for recon_001.pdf(451035 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

JJ HOLLAND LIMITED,	:	
	:	
Petitioner,	:	
	:	
v.	:	Cancellation No. 92055738
	:	
POTOMAC TOBACCO COMPANY LTD.	:	
	:	
Respondent.	:	
_____	:	

RESPONDENT'S REPLY TO PETITIONER'S
MOTION TO RECONSIDER BOARD'S DECISION OF JANUARY 2, 2016

Respondent Potomac Tobacco Company, Ltd., by and through its undersigned attorney, hereby responds to petitioner's baseless motion dated February 1, 2016, which was received by respondent's counsel on February 10, 2016. The Board correctly applied the law when it granted respondent's motion to compel and should deny the petitioner's attempt, once again, to avoid serving respondent with complete verified responses to its September 2014 discovery requests.

According to TBMP Section 518, the premise underlying a motion for reconsideration, modification or clarification under 37 CFR § 2.127(b) is that, based on the facts before it and the prevailing authorities, the Board erred in reaching the order or decision it issued. Such a motion may not properly be used to introduce additional evidence, nor should it be devoted simply to a re-argument of the points presented in a brief on the original motion. Rather, the motion should be limited to a demonstration that based on the facts before it and the applicable law, the Board's ruling is in error and requires appropriate change.

In the present instance, petitioner's arguments are merely a rehashing of its previous argument. Nothing new has been added. No new or additional cases have been cited and no new facts have been set out. The two cases that have been brought up again involve instances where

no initial disclosures were served prior to the serving of discovery requests. In the present case, the respondent timely served its initial disclosures (petitioner, on the other hand, served its initial disclosures after the due date) and respondent timely served petitioner with its discovery requests several months later during the discovery period. Petitioner acknowledged that it received all of these documents via email and First Class mail.

This reconsideration motion is merely an attempt by the petitioner to delay and/or avoid its discovery obligations. One is merely directed to the last sentence of the motion where the petitioner asks the Board to "instruct the respondent to return all the discovery materials provided and prohibit respondent from referencing our responses, documents or admissions in any way." What is the real purpose of this motion?

Further, petitioner was previously warned about making personal attacks against the respondent and its counsel. Respondent respectfully requests the Board to remind the petitioner of its duty in this regard.


CONCLUSION

The Board's decision dated January 2, 2016 is correct and should be upheld. Petitioner must provide respondent with complete, accurate and verified responses to all discovery requests in accordance with the Board's order. It is noted that respondent is in receipt of discovery responses that are not in compliance with the Board's order.

Respectfully submitted,

POTOMAC TOBACCO COMPANY LTD.

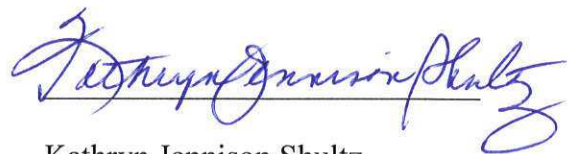
Dated: February 18, 2016

By 
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CERTIFICATE OF SERVICE

I hereby certify that true and complete copy of the foregoing RESPONDENT'S REPLY TO PETITIONER'S MOTION TO RECONSIDER BOARD'S DECISION OF JANUARY 2, 2016 was served upon Petitioner JJ Holand Limited, by forwarding same via First Class Mail, postage prepaid, to Petitioner's correspondence address, Keith Murray McCulloch, JJ Holand Limited, 87/171 Wireless Road, Pathumvan, Bangkok 10330, Thailand, this 18th day of February, 2016.



Kathryn Jennison Shultz